



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA-HQ-SFUND-1983-0002; FRL-9922-37-Region-2]

National Oil and Hazardous Substances Pollution Contingency Plan;

National Priorities List: Partial Deletion of the Fulton Terminals Superfund Site

AGENCY: United States Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Fulton Terminals Superfund site (Site), located in the City of Fulton, Oswego County, New York, consists of an “On-Property” portion, an approximately 1.5-acre parcel of land bounded on the west by First Street, on the south by Shaw Street, on the east by New York State Route 481, and on the north by a warehouse, and an “Off-Property” portion, defined by the area between the On-Property portion’s western property boundary to the Oswego River (approximately 50 feet).

The Environmental Protection Agency (EPA) Region 2, is publishing this direct final Notice of Partial Deletion (NOPD) of the On-Property portion of the Site from the National Priorities List (NPL). The NPL, promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final partial deletion is being published by EPA with the concurrence of the State of New York, through the New York State Department of Environmental Conservation (NYSDEC), because EPA has determined

that all appropriate response actions under CERCLA have been completed at the On-Property portion of the Site and that the soil on the On-Property portion of the Site and the groundwater beneath the On-Property portion of the Site no longer pose a threat to public health or the environment. The NOPD pertains to the On-Property portion of the Site. The Off-Property portion of the Site will remain on the NPL. Because residual groundwater contamination remains in the Off-Property portion of the Site, groundwater monitoring and five-year reviews will still be required for this area. The partial deletion does not preclude future actions under Superfund.

DATES: This direct final partial deletion will be effective **[insert date 60 days after date of publication in the *Federal Register*]** unless EPA receives adverse comments by **[insert date 30 days after publication in the *Federal Register*]**. If adverse comments are received, EPA will publish a timely withdrawal of this direct final NOPD in the *Federal Register*, informing the public that the partial deletion will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID no. EPA-HQ-SFUND-1983-0002, by one of the following methods:

Website: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

E-mail: tsiamis.christos@epa.gov.

Fax: To the attention of Christos Tsiamis at 212-637-3966.

Mail: To the attention of Christos Tsiamis, Remedial Project Manager, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, Region 2, 290 Broadway, 20th Floor, New York, NY 10007-1866.

Hand Delivery: Superfund Records Center, 290 Broadway, 18th Floor, New York, NY 10007-1866 (telephone: 212-637-4308). Such deliveries are only accepted during the Record Center's normal hours of operation (Monday to Friday from 9:00 A.M. to 5:00 P.M.). Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID no. EPA-HQ-SFUND-1983-0002.

EPA's policy is that all comments received will be included in the Docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or via e-mail. The <http://www.regulations.gov> website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comments. If you send comments to EPA via e-mail, your e-mail address will be included as part of the comment that is placed in the Docket and made available on the website. If you submit electronic comments, EPA recommends that you include your name and other contact information in the body of your comments and with any disks or CD-ROMs that you submit. If EPA cannot read your comments because of technical difficulties and cannot contact you for clarification, EPA may not be able to consider

your comments fully. Electronic files should avoid the use of special characters and any form of encryption and should be free of any defects or viruses.

Docket: All documents in the Docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly-available Docket materials can be obtained either electronically at <http://www.regulations.gov> or in hard copy at:

U.S. Environmental Protection Agency, Region 2

Superfund Records Center

290 Broadway, 18th Floor

New York, NY 10007-1866

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and

Fulton Public Library

160 South First Street

Fulton, NY 13069

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Hours: Tue - Thu: 9:00 A.M. - 7:00 P.M.

Fri: 9:00 A.M. - 5:00 P.M.

Sat: 10:00 A.M. - 3:00 P.M.

FOR FURTHER INFORMATION CONTACT: Christos Tsiamis, Remedial Project Manager, by mail at Emergency and Remedial Response Division, U.S. Environmental Protection Agency, Region 2, 290 Broadway, 20th floor, New York, NY 10007-1866; telephone at 212-637-4257; fax at 212-637-3966; or e-mail at tsiamis.christos@epa.gov.

SUPPLEMENTARY INFORMATION:

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I. INTRODUCTION

EPA Region 2 is publishing this direct final NOPD of the On-Property portion of the Site from the NPL. The NPL constitutes Appendix B of 40 CFR 300,

which is the NCP, which EPA promulgated pursuant to Section 105 of CERCLA, as amended. EPA maintains the NPL as the list of releases that appear to present a significant risk to public health, welfare, or the environment. The releases on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). This partial deletion of the Site is proposed in accordance with 40 CFR 300.425(e) and is consistent with the Notice of Policy Change: Partial Deletion of Sites Listed on the National Priorities List. 60 FR 55466 (Nov. 1, 1995). As described in Section 300.425(e)(3) of the NCP, a site deleted from the NPL remains eligible for Fund-financed remedial action if future conditions at the site warrant such actions.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the On-Property portion of the Site and demonstrates how it meets the deletion criteria. Section V discusses EPA's action to delete the On-Property portion of the Site from the NPL unless adverse comments are received during the public comment period.

II. NPL DELETION CRITERIA

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making such a determination pursuant to 40 CFR 300.425(e), EPA will consider, in consultation with the State, whether any of the following criteria have been met:

- i. responsible parties or other parties have implemented all appropriate response actions required;
- ii. all appropriate Fund-financed responses under CERCLA have been implemented, and no further action by responsible parties is appropriate;
or
- iii. the remedial investigation (RI) has shown that the release of hazardous substances poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

Pursuant to CERCLA Section 121(c) and the NCP, EPA conducts five-year reviews to ensure the continued protectiveness of remedial actions where hazardous substances, pollutants, or contaminants remain at a site above levels that allow for unlimited use and unrestricted exposure. EPA conducts such five-year reviews even if a site is deleted from the NPL. EPA may initiate further action to ensure continued protectiveness at a deleted site if new information becomes available that indicates it is appropriate. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

III. DELETION PROCEDURES

The following procedures apply to the deletion of the On-Property portion of the Site.

- (1) EPA consulted with the State of New York prior to developing this direct final NOPD and the NOIPD also published today in the “Proposed Rules” section of the *Federal Register*.
- (2) EPA has provided the State 30 working days for review of this notice and the parallel NOIPD prior to their publication today, and the State, through the NYSDEC, has concurred on the deletion of a portion of the Site from the NPL.
- (3) Concurrent with the publication of this direct final NOPD, a notice of the availability of the parallel NOIPD is being published in a major local newspaper, the *Palladium-Times*. The newspaper notice announces the 30-day public comment period concerning the NOIPD of the On-Property portion of the Site from the NPL.
- (4) EPA placed copies of documents supporting the proposed partial deletion in the Deletion Docket and made these items available for public inspection and copying at the Site information repositories identified above.

If adverse comments are received within the 30-day public comment period on this partial deletion action, EPA will publish a timely notice of withdrawal of this direct final NOPD before its effective date and will prepare a response to comments and continue with the deletion process based on the NOIPD and the comments received.

Deletion of a portion of a site from the NPL does not itself create, alter, or revoke any individual’s rights or obligations. Deletion of a portion of a site from the NPL does not in any way alter EPA’s right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA’s management of sites.

Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for further response actions should future conditions warrant such actions.

IV. BASIS FOR PARTIAL SITE DELETION

The following information provides the Agency's rationale for deleting the On-Property portion of the Site from the NPL.

Site Background and History

The Site (NYD980593099) includes an approximately 1.5-acre parcel of land situated approximately 10 miles southeast of the City of Oswego and 22 miles north-northwest of the City of Syracuse. The On-Property portion of the Site is bounded on the west by First Street, on the south by Shaw Street, on the east by New York State Route 481, and on the north by a warehouse.

The On-Property portion of the Site is located in an industrial section of the City of Fulton, within 50 feet of the Oswego River, which is used for recreation. Residences, city and county offices and several businesses are located within a 1,500-foot radius of the Site.

From 1936 to 1960, the primary activity at the Site was the manufacturing of roofing materials, which involved the storage of asphalt in above-ground tanks and fuel oil storage in underground tanks. From 1972 to 1977, the Site was used by Fulton Terminals, Inc. as a staging and storage area for solvents and other materials that were scheduled for incineration at the Pollution Abatement Services facility located in Oswego, New York. Operations at the Site resulted in the contamination of the groundwater, soil, and sediments with volatile organic compounds (VOCs).

From 1981 to 1983, Fulton Terminals, Inc. removed several tanks as part of a voluntary cleanup program. These activities ceased in 1983 after the facility operator was fined by NYSDEC for the improper disposal of polychlorinated biphenyls. The Site was listed on the NPL in 1982.

EPA and certain potentially responsible parties (PRPs) conducted removal activities at the Site in 1986, consisting of the following: constructing a seven-foot perimeter fence around the Site, posting warning signs, removing two above-ground tanks and two underground tanks, removing approximately 300 cubic yards of visibly-contaminated soil and tar-like wastes, and excavating storm drains that were acting as a conduit for contaminated runoff to enter the Oswego River during storm events. An additional removal action was performed in 1990 which involved the construction of earthen barriers for the prevention of surface runoff from the Site.

Remedial Investigation and Feasibility Study

From 1985 to 1987, NYSDEC's contractor, URS Company, Inc., performed a RI/feasibility study (FS) at the Site. The RI/FS report that was generated from these efforts was declared invalid by NYSDEC because of problems associated with the laboratory analyses. A revised RI/FS report, based on additional sampling, was prepared by NYSDEC's contractor in 1988. EPA concluded, however, that the revised RI/FS report did not fully characterize the Site. Accordingly, EPA performed a Supplemental RI/FS. The conclusions set forth in the Supplemental RI/FS, completed in 1989 by EPA's contractor, Ebasco Services, Inc., indicated that various VOCs were present in the unsaturated soil (above the water table) and in the groundwater at the Site. An Endangerment Assessment for the Site, which was also completed in 1989, contained conclusions that minimal human health risks were associated with the existing Site conditions. However, the Supplemental RI/FS process revealed that the leaching of VOCs from the contaminated on-site soil into the groundwater posed a risk to the environment.

Selected Remedy

The remedial action objectives selected for the Site include:

- prevent contact with contaminated soil;
- prevent migration of contaminated soil via surface water runoff and erosion;

- ensure protection of groundwater and surface water from the continued release of contaminants from soils; and
- restore groundwater to levels consistent with state and federal water quality standards.

On September 29, 1989, a Record of Decision (ROD) was signed, in which EPA selected excavation and low temperature thermal desorption (LTTD) to treat approximately 4,000 cubic yards (CY) of contaminated soils located above the water table, and pumping, air stripping, carbon adsorption, and reinjection as the treatment method of the contaminated groundwater. The remediation goal of the soil remedy was to reduce the concentrations of VOCs in the soils to levels which would not cause the groundwater quality to exceed groundwater standards as a result of percolation of precipitation through the unsaturated soils.

Remedy Implementation

A consent decree was signed by the PRPs in 1990, in which they agreed to design and implement the remedy called for in the ROD. The consent decree became effective in 1991.

Soil Remediation

The remedial design (RD) of the soil excavation and treatment was initiated by Blasland, Bouck & Lee, Inc. (BBL), the contractor for the PRPs, in 1991.

Pre-RD sampling revealed the presence of a significant amount of contamination in the deep soil (from the water table down to bedrock). Because the contaminated soil below the water table would continue to leach contaminants to the groundwater, EPA concluded that remediating this soil would be beneficial to the long-term groundwater cleanup.

Remedial alternatives to address the contaminated soils below the water table were evaluated in a focused feasibility study (FFS) completed by BBL in 1993 (amended in 1994). The FFS determined that specialized methods for stabilizing the deep excavation area would be required for removal of the contaminated soils because of the excavation depth, the need for control of groundwater infiltration into the excavation area, and the close proximity of the Site to the Oswego River.

Based on the results of the pre-RD sampling effort and the findings of the FFS, EPA modified the soil remedy in a 1994 Explanation of Significant Differences (ESD). The ESD called for the excavation of the VOC-contaminated soils in the saturated zone (below the water table), followed by the treatment of the excavated soils by LTTD.

Following the completion of the plans and specifications related to the soil remedy in 1995, BBL initiated construction of the soil remedy. Because of the proximity of the Site to the Oswego River, a “freeze wall” was used, which is a construction process whereby the ground is frozen at depth to allow the dry excavation of contaminated soils

below the water table. The excavation, treatment, and backfilling were completed in 1996. The total amount of contaminated source material that was remediated was 10,200 cubic yards. Post-excavation soil sampling results indicated that residual levels of VOCs in soils were well below the target cleanup levels.

Groundwater Remediation

The groundwater remedy called for in the ROD required the reduction of VOC concentrations to groundwater standards by pumping groundwater from the saturated sand and gravel zone underlying the Site, treating the groundwater by air stripping and carbon adsorption, and reinjecting the water into the saturated sand and gravel zone.

The design of the groundwater remediation was performed from 1991 to 1994. Initiation of the groundwater remedial action (RA) was, however, postponed until all soil RA activities at the Site were completed. At that time, a horizontal extraction well system consisting of a gallery of perforated piping and a collection manhole was installed at the base of the excavation. Given the overall effectiveness of the soil remedy, it was determined that groundwater standards could be achieved within a relatively short time frame if the groundwater extraction could be effected immediately. Utilizing a mobile treatment system, an expedited pumping of the contaminated groundwater took place between February and May 1997. The operation of the groundwater extraction and treatment system (including groundwater reinjection/surface water discharge), as well as the weekly influent/effluent monitoring, was performed by Clean Harbors.

During the 12-week operation period, 8.8 million gallons of groundwater were extracted and treated. Subsequently, a groundwater monitoring program was implemented by Roux Associates to assess the effectiveness of the soil remediation in combination with the expedited groundwater remedy. Residual subsurface ice from the freeze wall precluded an accurate evaluation of the groundwater remedy performance (two downgradient monitoring wells were frozen). Following the forced thaw of the freeze wall (via steam injection) by the PRPs in 1998, the temperature of the groundwater and the concentrations of contaminants were monitored. Groundwater samples collected in 1999 indicated that the freeze wall was no longer intact (*i.e.*, the two monitoring wells were free of ice) and that the contamination levels in these wells were showing a decreasing trend.

Following the collection of groundwater quality samples in 1999, EPA determined that the ROD requirements for the groundwater remedy had been substantially met and no further response, other than long-term groundwater monitoring, was anticipated.

Monitoring

Six monitoring wells located in the On-Property portion of the Site were abandoned in 2004 because contaminants had not been detected in these wells for multiple sampling periods. A monitoring well located downgradient of the On-Property portion of the Site on the western property boundary is the only well that continues to

show volatile organic compounds above groundwater standards. During the latest sampling in 2013, cis-1,2-dichloroethylene was detected at 12.9 micrograms per liter (µg/L), which is marginally above this contaminant's groundwater standard of 5 µg/L, and vinyl chloride was detected at 2.18 µg/l, which is slightly above its groundwater standard of 2 µg/L.

Five-Year Review

Hazardous substances remain at the Site in one monitoring well above levels that would allow for unlimited use and unrestricted exposure. Therefore, pursuant to CERCLA Section 121(c), EPA is required to conduct a review of the remedy at least once every five years. Five-year reviews were conducted in 2004, 2009 and 2014.

Community Involvement

Public participation activities for the Site have been satisfied as required pursuant to CERCLA Sections 113(k) and 117, 42 U.S.C. 9613(k) and 9617. As part of the remedy selection process, the public was invited to comment on the proposed remedy. All other documents and information that EPA relied on or considered in recommending this deletion are available for the public to review at the information repositories identified above.

Determination that the Site Meets the Criteria for Deletion from the NCP

All of the completion requirements for the On-Property portion of the Site have been met, as described in the September 1996 soil Remedial Action Report, the September 1999 Preliminary Close-Out Report, and the 2004, 2009, and 2014 five-year review reports. The State of New York, in a September 29, 2014 letter, concurred with the proposed partial deletion of the On-Property portion of the Site from the NPL.

The NCP specifies that EPA may delete a site from the NPL if “all appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate.” 40 CFR 300.425(e)(1)(ii). EPA, with the concurrence of the State of New York, through NYSDEC, believes that this criterion for the deletion of the On-Property portion of the Site has been met in that that the soil on the On-Property portion of the Site and the groundwater beneath the On-Property portion of the Site no longer pose a threat to public health or the environment. Consequently, EPA is deleting the On-Property portion of the Site from the NPL. Documents supporting this action are available in the Site files.

V. Deletion Action

EPA, with the concurrence of the State of New York through the New York State Department of Environmental Conservation, has determined that all appropriate responses under CERCLA have been completed at the On-Property portion of the Site and that the soil and the groundwater beneath the On-Property portion of the Site no longer pose a threat to public health or the environment. Therefore, EPA is deleting the On-Property portion of the Site from the NPL. Because residual groundwater

contamination remains in the Off-Property portion of the Site (west of the On-Property's property boundary to the Oswego River), the Off-Property portion of the Site is not being deleted from the NPL. Groundwater monitoring and five-year reviews will still be required for this area. The partial deletion does not preclude future action under CERCLA. Because EPA considers this action to be noncontroversial and routine, EPA is taking this action without prior publication. This action will be effective **[insert date 60 days from the date of publication in the *Federal Register*]** unless EPA receives adverse comments by **[insert date 30 days from the date of publication in the *Federal Register*]**. If adverse comments are received within the 30-day public comment period of this action, EPA will publish a timely withdrawal of this direct final NOPD before the effective date of the partial deletion and the deletion will not take effect. EPA will prepare a response to comments and continue with the deletion process on the basis of the NOIPD and the comments received. In such a case, there will be no additional opportunity to comment.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: January 6, 2015.

Judith A. Enck,
Regional Administrator,
EPA, Region 2.

For the reasons set out in this document, 40 CFR part 300 is amended as follows:

**PART 300—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION
CONTINGENCY PLAN**

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601-9675; E.O. 12777, 56 FR 54757, 3
CFR 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR 1987 Comp., p. 193.

2. Table 1 of Appendix B to part 300 is amended by revising the entry under “Fulton
Terminals Site,” “New York” to read as follows:

Appendix B to Part 300—National Priorities List

Table 1--GENERAL SUPERFUND SECTION

State	Site Name	City/County	Notes (a)

NY	Fulton Terminals	Fulton/Oswego	P

(a) * * *

*P = Sites with partial deletion(s).

[FR Doc. 2015-02266 Filed 02/03/2015 at 8:45 am; Publication Date: 02/04/2015]